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09/575094US02

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REMARKS*1. Status of Claims*

After the amendments to the claims, claims 1-4, 11, 15-30, 37, 41-63, 65-66, 70-73, 80, 84-91, 98, and 102-115 are pending in the application. Claims 1-4, 11, 15, 17-30, 37, 41, 43-63, 65-66, 70-73, 80, 84, 86-91, 98, 102-113, and 115 are pending and under consideration. Claims 16, 42, 85, and 114 are pending but withdrawn. Claims 5-10, 12-14, 31-36, 38-40, 64, 67-69, 74-79, 81-83, 92-97, and 99-101 are cancelled.

2. Amendments to the Claims

Independent claims 1, 28, 72, 89, and 90 have been amended to a form which removes the reference to structure I and removes the reference to structures having the allegedly undefined "R" moiety. Independent claims 1, 28, 72, 89, and 90 have also been amended to incorporate the oxygen scavenging polymer limitations of claim 10, or its respective equivalent. Consequently, claims 7, 10, 33, 36, 64, 76, 79, 94 and 97 have been canceled. Claims 11, 37, 65, 80, and 98 have been amended to maintain proper claim dependency.

3. Rejections Under 35 U.S.C. §112

Independent claims 1, 28, 72, 89, and 90 have been rejected under 35 U.S.C. §112 as "being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention." Specifically, page 2 of the Office Action dated January 31, 2006, stated that "[n]othing appearing to be an 'r' appears in the structure of the claims nor is it clear what the symbols in the 3 and 4 position of the cyclohexene ring are" and that "the moiety 'R' is undefined." Applicants submit that independent claims 1, 28, 72, 89, and 90 have been amended to a form which does not reference an "r" or the moiety "R." Consequently, the 35 U.S.C. §112 rejection of the claims is now moot. Applicants respectfully request that the 35 U.S.C. §112 of the pending claims be withdrawn.

4. Nonstatutory Double-Patenting Rejection

Claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 have been rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent 6,818,151. Applicants respectfully traverse this ground for rejection.

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However, in the interest of furthering prosecution of this application, Applicants herein submit a terminal disclaimer directed to U.S. Patent 6,818,151 to overcome this rejection. Accordingly, Applicants respectfully request that the rejection of the claims over claims 1-17 of U.S. Patent 6,818,151 on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

Claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 have been rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 36-50 of U.S. Patent 6,559,205. Applicants respectfully traverse this ground for rejection. However, in the interest of furthering prosecution of this application, Applicants herein submit a terminal disclaimer directed to U.S. Patent 6,559,205 to overcome this rejection. Accordingly, Applicants respectfully request that the rejection of the claims over claims 36-50 of U.S. Patent 6,559,205 on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

Claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 have been rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-56 of U.S. Patent 6,437,086. Applicants respectfully traverse this ground for rejection. However, in the interest of furthering prosecution of this application, Applicants herein submit a terminal disclaimer directed to U.S. Patent 6,437,086 to overcome this rejection. Accordingly, Applicants respectfully request that the rejection of the claims over claims 1-56 of U.S. Patent 6,437,086 on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

Claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 have been provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-58 of U.S. patent application 09/760,620. Applicants respectfully submit that this patent application was granted as U.S. Patent 6,559,205 on May 6, 2003 and thus the applications are no longer copending. Applicants further submit that the Office action dated January 31, 2006, rejected claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 36-50 of U.S. Patent 6,559,205. As stated above, Applicants traversed this ground for rejection but have submitted a terminal disclaimer directed to U.S. Patent 6,559,205 to overcome the obviousness-type double patenting rejection. Accordingly, Applicants respectfully request that this provisional rejection on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

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Claims 1-4, 7, 10, 11, 15-30, 33 36, 37, 41-66, 70-73, 76, 80, 84-91, 94, 97, 98, 102-115 have been provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 36-49 of copending U.S. patent application 09/800,418. Applicants respectfully traverse this ground for rejection. On February 13, 2006, an Office Action Response was filed with the U.S.P.T.O. for U.S. patent application 09/800,418. In this Office Action each of the independent claims in copending US patent application 09/800,418 were amended to stipulate that the oxygen scavenging polymer is MXD6. In contrast, independent claims 1, 28, 72, 89, and 90 of the present patent application stipulate that the "oxygen scavenging polymer is a homopolymer or a copolymer of cyclohexenylmethyl acrylate." MXD6 has a well-known structure which is known not to include any moiety that can be construed as derived from cyclohexenylmethyl acrylate. Therefore, MXD6 is not an "oxygen scavenging polymer is a homopolymer or a copolymer of cyclohexenylmethyl acrylate" as stipulated in the presently pending independent claims. Consequently, the scope of claims 36-49 of copending U.S. patent application 09/800,418 and the pending claims of the present application do not overlap. Applicants respectfully request that the provisional rejection of the pending claims over claims 36-49 of copending U.S. patent application 09/800,418 on the grounds of nonstatutory obviousness-type double patenting be withdrawn.

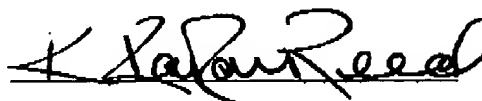
5. *Final Remarks*

In conclusion, Applicants respectfully submit that all pending claims under consideration, claims 1-4, 11, 15, 17-30, 37, 41, 43-63, 65-66, 70-73, 80, 84, 86-91, 98, 102-113, and 115 are in condition for allowance. The Examiner is invited to contact the undersigned patent attorney at (832) 813-4339 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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